

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on March 7, 2001 at 3:15 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 510, 3/1/2001; HB 406,
3/1/2001; HB 583, 3/1/2001
Executive Action:

HEARING ON HB 510

Sponsor: REP. BOB LAWSON, HD 80, WHITEFISH

Proponents: Lance Melton, Montana School Board Association
Vicki LaFond-Smith, Helena

Maggie Bullock, DPHHS

Dr. Mary Ann Guggenheim, Helena
Liz Gunderson, American Academy of Pediatricians
Patti Russ, DPHHS
Shelly Smetana
Jennifer West, STEP
Joyce De Cunzo, DPHHS
Margaret Ulvestad, Family Outreach
Sheila Thompson, Opportunity Resources
Mary LaFond
Darrell Stripech

Opponents: **Lewis Smith, Montana Board of Nursing**
Inga Nelson, Montana Education Association - Montana
Federation of Teachers

Opening Statement by Sponsor:

REP. BOB LAWSON, HD 80, WHITEFISH introduced HB 510. He said this bill is an act that would provide the nutrition, inclusive of supplements and prescribed medications, through a gastrostomy (g-tube) or jejunostomy (j-tube) tube by certain persons that are not within the scope of the practice of nursing. He said the goal of this bill is to improve and enhance the quality of life of parents, families, and those individuals, who are g and j tube fed.

Proponents' Testimony:

Lance Melton, Montana School Board Association (MSBA) said he was familiar with issues in this bill and that the MSBA does support this bill.

Vicki LaFond-Smith, Helena submitted a copy of her testimony **EXHIBIT (phs52a01)**. She submitted letters of support **EXHIBIT (phs52a02)**.

Maggie Bullock, DPHHS said she was in support of this bill. She said she had worked with families who would be affected by this bill. She felt it is the right thing to do.

Dr. Mary Ann Guggenheim, Helena said she had worked with many children who needed g-tubes. This system was first developed in the early 70's, and then it was a more complicated process. Now it is a relatively simple and safe process. She submitted a letter from **Jan Donaldson EXHIBIT (phs52a03)**.

Liz Gunderson, American Academy of Pediatricians said they support this bill.

Colleen Nichols said she is the parent of Nathan who has a g-tube. This bill would help her son be able to live independently.

Patti Russ, DPHHS read a letter from Lisa Murphy **EXHIBIT (phs52a04)** and submitted a letter from Shana Boffon **EXHIBIT (phs52a05)**.

Shelly Smetana submitted a letter of testimony **EXHIBIT (phs52a06)**.

Jennifer West, STEP, Billings said they are in support of this bill and submitted a letter from the Wallace Family **EXHIBIT (phs52a07)**.

Joyce De Cunzo, DPHHS urged the committee to pass this bill. She said it would be good for individuals to be able to direct their own care.

Margaret Ulvestad, Family Outreach, Helena submitted a letter of testimony **EXHIBIT (phs52a08)**.

Sheila Thompson, Opportunity Resources said she was in support of this bill.

Mary LaFond asked the committee to support this bill.

Darrell Stripich said he was here in support of this bill.

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Opponents' Testimony:

Lewis Smith, Montana Board of Nursing passed out a statement from **Rita Harding, President Board of Nursing** **EXHIBIT (phs52a09)** and a letter from **Susan Raph** **EXHIBIT (phs52a10)**.

Inga Nelson, Montana Education Association - Montana Federation of Teachers said she was representing the school nurses. She said they were concerned that the tube feeding responsibility would fall on nurses and aides. She passed out an amendment **EXHIBIT (phs52a11)** and asked the committee to support this amendment. She also told the committee that **Cathy Buetteler, President of the Montana School Nurses**, was not comfortable with the bill as it stands right now.

Questions from Committee Members and Responses:

SEN. DEPRATU asked if he had seen the amendment. **REP. LAWSON** said he had seen it, and he believed it was the same one that had been offered before the bill had been heard in the house. **Jeff Weldon, Legal Counsel, OPI** said in his opinion this amendment does nothing to the authority held by the trustees in the school districts.

SEN. DEPRATU asked if the amendment was necessary. **REP. LAWSON** said they did not want to mess with the schools. He said he felt don't put anything on schools that is not necessary or take anything away from them. He said this would be an agreement between parties and no one would be forced to do anything they did not want to do.

SEN. CHRISTIAENS asked if these feedings could be done after a person had been trained by a nurse. **Ms. Caldwell** said they can be done with periodic supervision and training by a nurse.

SEN. FRANKLIN said she had some concerns about how parents would get the support they need. **Dr. Guggenheim** said the tube is inserted in a hospital setting, and the people taking care of the child would be trained before they left the hospital.

SEN. FRANKLIN said she was looking at the assessment part of this; not the technical skill. She felt it is the responsibility of the health care community to make sure the parents are given the proper training.

SEN. GRIMES asked if this would change anything for the residential care aides, hospice aides, etc. **Dr. Guggenheim** said they were very careful not to have any impact on nursing homes.

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Linda Henderson, Registered Nurse, Missoula said this bill would affect settings where home health care is practiced. She said personal care attendants, home care aides, and any level of aide, would no longer fall under the supervision of a registered nurse in this activity.

Closing by Sponsor:

REP. LAWSON asked the committee to pass this bill. He said this bill will enhance the quality of life for individuals and

families. He felt this is a freedom of choice issue and a privacy issue.

SEN. JOHNSON will carry this bill on the Senate floor.

HEARING ON HB 406

Sponsor: REP. KIM GILLAN, HD 11, BILLINGS

Proponents: Dr. James Mack, Billings
Mary Hernandez, American Diabetes Association
William Tilton, Billings
Melinda Tilton, Billings
Lisa Roberson
Debbie Bjorsness, American Association of Diabetes
Educators
Steven Worisek
Jane Fitch Meszaros, St. Vincent's Hospital
Zackery Greenwood
Adele Worisek
Jean Nelson Dean
Eileen Greb
Jani McCall, Deaconess Billings Clinic
Sami Butler, Montana Nurses Association
Jim Ahrens, Montana Hospital Association
Beda Lovett, Montana Medical Association
Claudia Clifford, State Auditor's Office
Tanya Ask, BlueCross BlueShield
Al Montrelli, Montana Association of Insurance and
Financial Advisors
Mary Allen, Montana Medical Benefits and Life

Opponents: Jerry Driscoll, Building Trades

Opening Statement by Sponsor:

REP. KIM GILLAN, HD 11, BILLINGS introduced HB 406. She said this is an act that would require insurance coverage for out-patient self-management training and education for the treatment of diabetes and a limited benefit for certain diabetic equipment and supplies. She said 42 other states already have this requirement. It would also require coverage by Health Maintenance Organizations and coverage offered by multiple employer welfare arrangements.

Proponents' Testimony:

Dr. James Mack, Billings said it is important for people to control their diabetes by methods of teaching and he hoped we would not have a health care system that would favor only the privileged few. He hoped this bill would be able to extend the basic needs and self management to all who need it.

Mary Hernandez, American Diabetes Association said 1 in 17 adult Montanans have diabetes. She said that does not include the 3400 children who have Type 1 diabetes. She passed out a fact sheet **EXHIBIT (phs52a12)**.

William Tilton, Billings said he was a Type 1 diabetic. He said he had to use syringes three or four times a day. He said when he is in school he needs to test his blood four to five times a day. He told his classmates about his symptoms, so they would be aware when he was not feeling well.

Melinda Tilton, Billings said she was Will's mom. She said she was very proud of her son and a child with diabetes must grow up a lot faster than other children. Her son has to be able to sense his highs and lows. He has to be able to test himself, and be educated so he is able to draw up the insulin. She said she has had to educate everyone who comes in contact with Will, so they are aware of his diabetes. She felt education is the key to bringing down the cost of diabetes.

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Lisa Roberson said her daughter has diabetes and she agrees education is very important.

Debbie Bjorsness, American Association of Diabetes Educators passed out a copy of her testimony **EXHIBIT (phs52a13)**.

Steven Worisek said he was a Type 1 diabetic. He has a pump in his stomach, which helps him control his diabetes.

Jane Fitch Meszaros, St. Vincent's Hospital said education is extremely important.

Zackery Greenwood said he is a Type 1 diabetic. He said he checks his blood sugar seven times a day and he has to give himself three shots a day. He said diabetes is a life changing illness and it changes everything that he does.

Adele Worisek said she is Steven's mother. She lives 35 miles away from the hospital. It was very important that her children and the children at his school be educated about diabetes.

Jean Nelson Dean said she has had diabetes for 20 years. She did not have any diabetic education and when she got pregnant, subsequently, she had complications. When she became pregnant

again, she had been educated and she did not have the complications with her pregnancy.

Eileen Greb said she had been a Type 2 diabetic for seven years. She said without insurance coverage, some people have to choose between their medications and the medication strips that are used for testing. She asked the committee to please support HB 406.

Jani McCall, Deaconess Billings Clinic said Deaconess had taken the lead in the development of this bill. She also said she has had diabetes for 27 years and she is a pump user.

Sami Butler, Montana Nurses Association are in support of this bill.

Jim Ahrens, Montana Hospital Association said they were here to support this bill.

Beda Lovett, Montana Medical Association said they are in support of this bill. She said she has a son who is diabetic.

Claudia Clifford, State Auditor's Office passed out a memo from their chief legal counsel **EXHIBIT**(phs52a14).

Tanya Ask, BlueCross BlueShield said they are in support of this bill.

Al Montrelli, Montana Association of Insurance and Financial Advisors said they definitely support this bill.

Mary Allen, Montana Medical Benefits and Life said they support the bill.

Opponents' Testimony:

Jerry Driscoll, Building Trades said he was not an opponent to the idea of the bill. He did have a concern regarding multiple employer welfare arrangement (MEWA) and passed out an amendment to the bill **EXHIBIT**(phs52a15).

SEN. JOHNSON submitted a letter from the **Montana Contractors' Trust** **EXHIBIT**(phs52a16).

Questions from Committee Members and Responses:

SEN. GRIMES asked if the MEWA's have a lower cost to the members because of the mandates. **Mr. Driscoll** said it is not an

insurance program, they have a third party administrator who pays the bills for their members.

SEN. STONINGTON asked how many of the people are denied insurance coverage, because they have diabetes. **Ms. Hernandez** said she did not have that number. She said she knew it was significant, because her office receives calls almost daily, from people wanting to know about insurance coverage.

SEN. STONINGTON asked if BCBS policies include diabetes coverage. **Ms. Ask** said within BCBS they do have the kind of coverage that is included in this bill. She said within a group policy, an individual is allowed into a group health insurance plan that is regulated. Whether or not a person can afford the coverage is a different story.

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SEN. STONINGTON said she was having a hard time trying to figure out how many diabetics are not covered by insurance. **SEN. FRANKLIN** said while some diabetics are covered by insurance; the insurance coverage does not cover the cost of supplies and education. **Ms. McCall** said what they are trying to do with this bill is to get the coverage of the specific services that are preventative.

SEN. STONINGTON said you are asking for a \$250.00 benefit for education, what does that entail? **Ms. Meszares** said the \$250.00 is really not enough when you consider the cost of nutrition counseling. What she does is an assessment, which involves a three-page questionnaire. She evaluates the persons' knowledge of diabetes and then she identifies those areas that need to be taken care of right away. Next, goals are set and a follow-up program is established to make sure the goals are being met. This assessment should be done on an annual basis.

SEN. CHRISTIAENS asked if the amendment from **Mr. Driscoll** was necessary. **Ms. Clifford** said she wanted to make it clear that legally it is a policy decision of the legislature to impose this mandate on MEWA's.

SEN. CHRISTIAENS asked if this amendment was offered in the house. **REP. GILLAN** said there was an opponent to the bill, she believed it was EBMS from Billings. She said she does not understand the full implication of MEWA's and she does not want that to stop the bill.

SEN. GRIMES asked if group benefits you spoke of included education, insulin, pumps etc. **Ms. Ask** said yes, BCBS feels it is good policy to require these supplies be covered.

SEN. JOHNSON asked what kind of cost would this bill add to the Montana Contractor's group. **Mr. Driscoll** said it would not add anything, because they already do it.

SEN. JOHNSON asked what is the difference between federal regulation and state regulations. **Ms. Clifford** said there is a very limited amount of federal regulation. The regulations fall under an act called ERISA.

SEN. O'NEIL asked how many insurance companies do not provide these benefits. **Ms. Clifford** said that was very difficult to tell.

Closing by Sponsor:

REP. GILLAN thanked the committee for a good hearing.

HEARING ON HB 583

Sponsor: **REP. JOHN ESP, HD 25, BIG TIMBER**

Proponents: **Ed Amberg, Montana State Hospital**
Marti Wangon, Montana Psychological Association
Bonnie Adee, Mental Health Ombudsman

Opponents: **Dr. Donald Harr, Montana Psychiatric Association**
Bob Olsen, DPHHS
SEN. TOM BECK, DEER LODGE

Informational: **Dr. Ginny Hill, Montana State Hospital**

Opening Statement by Sponsor:

REP. JOHN ESP, HD 25, BIG TIMBER introduced HB 583. He said this is an act to provide for a mental health advance directive. It would provide for the content of the advance directive. It would provide that the directive be binding upon an inpatient facility, from the time the facility is given notice of the directive. He passed out an amendment **EXHIBIT (phs52a17)** and a letter from **Sandra Mihelish EXHIBIT (phs52a18)**. He said he only wants this

bill to address the issue of who is to be called and who is not to be contacted if a person were to be hospitalized.

Proponents' Testimony:

Ed Amberg, Montana State Hospital said they are contacted by family members who are trying to find out information about other family members who have a mental illness. He said they certainly support the concept of this bill. He did say there are some concerns about the potential of someone writing an advanced directive that would be legally binding and would restrict their ability to treat someone.

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Marti Wangon, Montana Psychological Association submitted written testimony from **Debra Sanchez EXHIBIT (phs52a19)**. She said they wanted to thank **REP. ESP** for bringing this bill forward.

Bonnie Adee, Mental Health Ombudsman said it is a family problem. She said families cannot assess information about a missing person. On behalf of families members, she urged the committee to support this bill. She said she would like to see mental incapacity clarified.

Opponents' Testimony:

Dr. Donald Harr, Montana Psychiatric Association said he signed as an opponent, only because of his concerns about the wording in this bill. In general he agrees with the intent of this bill, but he felt some amendments would clear up the wording. He said he would be willing to sit in on the discussion about the amendments and offer any information he had.

Bob Olsen, DPHHS submitted a copy of his testimony **EXHIBIT (phs52a20)**.

SEN. TOM BECK, DEER LODGE said he was going to testify as an opponent to this bill in its present form. He felt with amendments this bill could be workable. He said he would work with **Dr. Ginny Hill** to see this bill would get in its proper form.

Questions from Committee Members and Responses:

SEN. FRANKLIN asked if he looked at the amendments that were passed out. **REP. ESP** said he had not had a chance to look at them.

SEN. FRANKLIN asked if he was open to look at additional amendments. **REP. ESP** said he was willing to look at additional amendments.

SEN. FRANKLIN said she was surprised how cautious this bill was, since it only requires the notification of family. She asked if **REP. ESP** would be willing to have this bill become a little more aggressive. **REP. ESP** said maybe at a later time.

SEN. CHRISTIAENS asked what had the contact been with the consumer population. **REP. ESP** said he had worked closely with NAMI.

SEN. CHRISTIAENS wondered if the Mental Health Oversight Advisory Council (MHOAC) had looked at this bill. **Dr. Harr** said the MHOAC had not been aware of this bill.

SEN. FRANKLIN said **Dr. Ginny Hill, Montana State Hospital**, traveled quite a distance to appear as an informational witness. She wondered if **Dr. Hill**, would like to add any information.

Dr. Ginny Hill said when she first read this bill, she got a little bit frightened. She was afraid the patients would tell her what medications they would take. She said her hospital administrator said all it was addressing was who would be notified and who would be allowed to visit. **Dr. Hill** said if the psychiatric advanced directive changes and goes any further than what already is in the bill, she would be in contact with them. She certainly felt **REP. ESP** had tried to address the middle group within this very controversial issue.

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SEN. FRANKLIN said that the issue you seemed to be concerned about are incompetence verses capacity. **Dr. Hill** said as she understands it, we are all competent until a judge tells us we are not. Capacity is a term used by psychologists to see how well a person can make a task-specific decision.

SEN. HARGROVE said there could be a potential controversy that would center around whether the person could revoke the directive. He said he thought it needed to be done when the person is competent. **Dr. Hill** said that is a good point. She

was also concerned there are not very many standards when you are defining capacity.

SEN. STONINGTON asked why this bill only addressed the issue when the person was present in the hospital, and did not require any information about their treatment or condition. **REP. ESP** said he was more concerned that the person was safe, rather than getting the information on their condition.

SEN. O'NEIL asked if health care facilities could be expanded to include nursing homes. **REP. ESP** said it could include a very limited number of nursing homes, but he was not sure if it could be expanded to include all nursing homes.

Closing by Sponsor:

REP. ESP thanked the committee for a good hearing. He said his goal of this bill is to find out that everybody is safe and alive.

ADJOURNMENT

Adjournment: 5:45 P.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT (phs52aad)